

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,) 4:07CR3126
)
v.)
)
TIERRA LEE,) MEMORANDUM
)
Defendant.) AND ORDER
)

Tierra Lee cannot take “no” for an answer. She has filed a second 2255 motion (filing no.73) after I denied the first one. (Filing nos. 71 and 72.) She has not obtained permission from the Court of Appeals to do so despite the requirements of the law. 28 U.S.C. § 2255(h); *United States v. Hamilton*, 604 F.3d 572, 574 (8th Cir. 2010) (a “successive § 2255 motion is not permitted unless the motion is certified by a panel of this court [the Court of Appeals] to contain ‘newly discovered evidence’” or “a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable””). Moreover, she has alleged no facts in support of the motion. In addition, the motion is far too late. Finally, and at least as insofar as Lee is concerned, *Lafler* and *Frye* did not create a new rule of constitutional law. Accordingly,

IT IS ORDERED that the Motion to Vacate under 28 U.S.C. § 2255 (filing no. 73) and the Motion to Appoint Counsel (filing no. 74) are denied with prejudice. A separate judgment will be issue.

September 10, 2012.

BY THE COURT:

Richard G. Kopf
Senior United States District Judge